

**MINUTES**  
**ENERGY FACILITY SITE EVALUATION**  
**COUNCIL OF WASHINGTON**

September 7, 2004 Special Meeting  
925 Plum Street S.E., Building 4, Room 308  
Olympia, Washington 2:00 p.m.

**ITEM. 1: CALL TO ORDER**

CHAIR LUCE: The meeting will come to order. The clerk will call the roll.

**ITEM 2: ROLL CALL**

**EFSEC Council Members**

**Community, Trade & Economic Development**

**Department of Ecology**

**Department of Fish & Wildlife**

**Department of Natural Resources**

**Utilities and Transportation**

**Kittitas County**

**Chair**

Richard Fryhling

Hedia Adelsman

Chris Towne

Tony Ifie

Tim Sweeney

(via phone) Patti Johnson

Jim Luce

CHAIR LUCE: I note we expect Tim Sweeney from the Utilities and Transportation Commission momentarily.

MR. MILLS: There is a quorum.

**OTHERS IN ATTENDANCE**

**EFSEC STAFF AND COUNSEL**

Allen Fiksdal

Mike Mills

Shaun Linse, Court Reporter

Irina Makarow

Mariah Laamb

**EFSEC GUESTS**

Charles Carelli – Independent Contractor for EFSEC

John Lane – Counsel for the Environment

Darrel Peeples – Attorney for Kittitas & Wild Horse Projects

Jim Hurson – Dep. Prosecutor for Kittitas County (via phone)

Bill LaBorde – Northwest Energy Coalition

Alan Harger – DOT

David Bricklin – Attorney for British Columbia (via phone)

Mark Anderson – CTED Energy Policy

Clay White – Kittitas County Planning and Development (via phone)

Karen McGaffey – Attorney with Perkins Coie (via phone)

Rick Adair – Clearing Up (via phone)

### ITEM NO. 3: ADOPTION OF THE PROPOSED AGENDA

CHAIR LUCE: Do Council have before them the proposed agenda? Are there any comments, proposed changes, adoption of the agenda that shall be considered? All right. The agenda is approved as proposed. Councilmembers have signified that there are no changes to the proposed agenda.

### ITEM NO. 4: MINUTES

CHAIR LUCE: The next matter on the agenda is the adoption of the minutes for July 19, 2004. Have Councilmembers had an opportunity to review the minutes for July 19, 2004? Are there any corrections other than editorial changes?

MS. TOWNE: No.

CHAIR LUCE: Editorial changes have been provided?

MS. TOWNE: Yes.

CHAIR LUCE: Editorial changes have been provided. Councilmembers, do we have a motion to adopt the minutes as approved?

MR. IFIE: I so move.

CHAIR LUCE: Second?

MS. ADELSMAN: Second.

CHAIR LUCE: All in favor say aye.

COUNCILMEMBERS: Aye.

CHAIR LUCE: The minutes for July 19 are approved.

### ITEM NO. 5: SATSOP COMBUSTION TURBINE PROJECT

<i>Air Permit Amendment</i>	<i>Irina Makarow, EFSEC</i>
CHAIR LUCE: The next item on the agenda is Satsop Combustion Turbine Project Air Permit Amendment, an action item, Irina Makarow. Irina, do you have something for us here?	
MS. MAKAROW: In your packets you have a responsiveness summary and amendment to the Satsop PSD Permit. As indicated in the responsiveness summary we received two comments on the draft permit, and we held a public hearing in August on the permit at which nobody testified. As a result of considering those two comments there was one change that had to be made to the draft which is the amendment of the date at which the extension request would expire which is being changed to January 20, 2006. So with that change, EFSEC staff recommends that the Council adopt this as the final permit, and we can send it up to EPA for signature, and that would be completed for this project.	
CHAIR LUCE: Councilmembers have any discussion regarding that proposed amendment?	
MR. IFIE: One small question. What was the deadline for receiving comments for this amendment?	
MS. MAKAROW: It was 5:00 p.m. the date of the public hearing.	
MR. IFIE: Oh, okay. We took action prior to 5:00 p.m.	
MS. MAKAROW: Correct.	

MR. IFIE: Okay. I see. Because I was looking at my document, and I noticed it was the same day. Okay.

CHAIR LUCE: Any other questions or comments?

MS. TOWNE: I have a question, Mr. Chair. This purports to be an EFSEC permit and notice.

MS. MAKAROW: Yes.

MS. TOWNE: And yet EPA must approve it. If it's our permit, why? We have some delegated authority presumably under the Clean Air Act, then why is it EPA approval?

MS. MAKAROW: EPA approval is required because we are not fully delegated. The state as a whole is not fully delegated to issue PSD permits because there were some inadequacies with the state implementation plan with regards to NOx emission control, and so the delegation allows EFSEC to issue any permits alone if there are no NOx emission limitations.

MS. TOWNE: But there is here.

CHAIR LUCE: But there is here, and that's why they put it down.

MS. TOWNE: Thank you.

MS. MAKAROW: Actually with our recent adoption of our revised rule we will be going to EPA and seeking a revised delegation that would allow us to issue permits without EPA's co-signature on it.

MS. TOWNE: Thank you.

MS. ADELSMAN: Now EPA did they issue a new NOx guideline or something like that recently?

MS. MAKAROW: No. Ecology is a little bit ahead of -- Ecology is also delegated by EPA to issue PSD permits. They're a little bit ahead of the game with respect to EFSEC, and they can issue their permits without EPA signing.

MR. FIKSDAL: I would just like to make a comment. Even though this PSD is in its final form, it will not become effective until the Governor makes a decision on the EPA recommendation that you make to him. So --

MS. TOWNE: No, no. This is Satsop.

MS. MAKAROW: No, this is the Satsop project.

MR. FIKSDAL: Oh, excuse me. I'm ahead of myself. I retract everything I said.

CHAIR LUCE: Strike Mr. Fiksdal's comments on the record.

MR. FIKSDAL: Thank you.

CHAIR LUCE: I enjoy saying that. Any other comments from Councilmembers or questions? Do we have a motion to approve?

MS. TOWNE: So moved.

MR. FRYHLING: Second.

CHAIR LUCE: All in favor say aye.

COUNCILMEMBERS: Aye.

CHAIR LUCE: The Satsop Combustion Turbine Project Air Permit Amendment is approved.

Let the record show that Mr. Sweeney, representative from Utilities and Transportation Commission, has arrived, and I had two other parties come on to the phone since we began. Can those parties identify themselves, please.

MR. ADAIR: Rick Adair, Clearing Up.

CHAIR LUCE: All right, Rick.

MR. LaBORDE: This is Bill LaBorde from Northwest Energy Coalition.

CHAIR LUCE: All right. Hedia.

MS. ADELSMAN: Oh, I wanted to -- I didn't hear who Rick Adair is.

CHAIR LUCE: Rick Adair is from Clearing Up publication. I guess that's adequate identification.

MS. ADELSMAN: Thanks.

## ITEM NO. 6: PROJECT UPDATES

<i>Kittitas Valley Wind Power Project</i>	<i>Irina Makarow, EFSEC</i>
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CHAIR LUCE: Next item on the agenda is Project Updates, an information item. Irina, do you have project updates for us?

MS. MAKAROW: I have circulated a revised version of our large project calendar, all of the happenings that we have planned until the end of this year at least. With respect to the Kittitas Valley Wind Power Project between now and the hearing, which we expect to start on September 27, there are going to be a number of filings that will be coming in. We are collecting comments on the Draft Supplemental EIS by this Friday. If any parties have any additional testimony with regards to the Draft SEIS that should be coming in. Then rebuttal to that testimony, motions to strike, responses to strike would be in two weeks, and then we would get onto the business of the hearings. I have also indicated the dates that have been circulated to the parties in their last prehearing conference order that set out the post-hearing briefing schedule and then the Council's schedule for making a decision on the Kittitas Valley project unless Darrel Peebles has an update. I see him shaking his head no. That completes my report on the Kittitas Valley Project.

CHAIR LUCE: All right. For the benefit of those on the phone the orders in the Kittitas Valley project that have been issued by Administrative Law Judge Torem are available on EFSEC's website. Is that correct?

MS. MAKAROW: Correct.

CHAIR LUCE: Would this tentative EFSEC schedule for projects under review also be available on that website, and if not, would parties be able to call you, Irina, and get a copy of that?

MS. MAKAROW: Certainly we can share this with anybody who requests it.

CHAIR LUCE: Anyone who wishes to get a copy of that schedule if you would call Irina that would be made available to you.

MS. MAKAROW: There is actually one item which I forgot about it.

CHAIR LUCE: Right.

MS. MAKAROW: We have been working with Shapiro & Associates in setting out a schedule for them to prepare the Final EIS, and we will require a contract amendment to cover the cost of responding to the larger number of comments received than was originally anticipated in the original permit and then also to incorporate the off-site alternatives analysis into the Final EIS. Right now that contract amendment we have negotiated with Shapiro is for \$48,000, and staff will be approving that contract amendment very early this week, so that they can get on with the work in providing us with a Final EIS.

CHAIR LUCE: I assume you do not need action by the Council.

MS. MAKAROW: No, it was just an informational item. I will just let you know that they will be working very hard on this.

CHAIR LUCE: Thank you. Now your schedule doesn't show -- maybe it does show, and I missed the September 13 Kittitas County Superior Court Hearing.

MS. MAKAROW: No, it does not show that.

CHAIR LUCE: Thank you.

MR. FIKSDAL: Again, Mr. Chairman, this is a tentative schedule. It's for planning purposes on our part. I think the parties to the adjudications can get the dates off of the orders that have been issued for those projects, those specific projects.

CHAIR LUCE: Good. Thank you. All right.

<b><i>Wild Horse Wind Power Project</i></b>	<b><i>Irina Makarow, EFSEC</i></b>
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MS. MAKAROW: With respect to the Wild Horse Wind Power Project, coming up we have the end of the comment period on the Draft EIS, and then on September 30 in the morning we'll be holding a prehearing conference on intervention. Of course, also the end of this week is the end of the intervention period, so we'll know what organizations or persons would like to come before the Council in this case. Mr. Peeples, do you have any updates on your work with the County with regard to land use consistency?

MR. PEEPLES: No, except there was a meeting today that I wasn't at. But there has been a meeting today, and we're working with the County.

MS. MAKAROW: Very good. In that case that is all that I have to report on the Wild Horse Wind Power Project.

CHAIR LUCE: Any comments by the County, Mr. Hurson, Mr. White, Patti?

MR. HURSON: This is Jim Hurson. I couldn't hear what Darrel said.

CHAIR LUCE: He didn't say anything. He didn't have any comments.

MR. HURSON: We did meet with another representative this morning to go through our schedule process.

CHAIR LUCE: Thank you.

MS. TOWNE: I have a quick question. The last item on the Wild Horse calendar is the November 15 deadline for land use extension. I assume that is for filing a request for a land use extension period.

MS. MAKAROW: Yes, I believe at the special Council meeting that you held in Ellensburg that was the time period that the Applicant was going to come back and give the Council an update.

MR. PEEPLES: Actually it's the 1st. The 15th is when the preemption period runs out. We are to respond either I believe with a request for preemption by the first week of November. It was something like that. That would give the Council time enough to respond to it.

MR. FIKSDAL: The timing was put so that the Council could take some action after the first of the month. So the Applicant will have to respond prior to that.

MR. PEEPLES: We'll have an update in October too.

CHAIR LUCE: Okay. Thank you.

MR. FIKSDAL: For those on the telephone Mr. Peeples said that they'll have an update to us in October.

CHAIR LUCE: Anything else, Irina?

MS. MAKAROW: No, that is all that I have for Wild Horse.

CHAIR LUCE: Kittitas?

MR. FIKSDAL: BP is next.

CHAIR LUCE: Oh, I'm sorry.

<b><i>BP Cherry Point Project</i></b>	<b><i>Irina Makarow, EFSEC</i></b>
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MS. MAKAROW: BP Cherry Point.

CHAIR LUCE: BP.

MS. MAKAROW: I think we're working very hard to get a Council decision before the Council goes off to Ellensburg, so we will need to schedule -- we will need to try to schedule a special

meeting for late in the week of September 20 for Councilmembers to come together and make their decision known with respect to that project. I think we can wait to do that later this week when we'll have Dan McShane among us and see what his availability will be, and the Council will also have to decide if they want to hold that meeting here in Olympia or up in Whatcom County.

<b><i>Sumas Energy 2</i></b>	<b><i>Irina Makarow, EFSEC</i></b>
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CHAIR LUCE: Thank you. Sumas.

MS. MAKAROW: It's just a very short update on the Draft PSD permit. We have the permit pretty much pulled together, 95 percent. It just needs some minor editing based on some comments that were sent to us from EPA Region 10, and the main point that I needed to make here was that we do have to start thinking about a time to go up to Whatcom County and receive comments on this draft permit. Right now it is looking as though the week of October 18 is open, so that would be after your hearings in Ellensburg. If you have any conflicts that week, please let me know, so that we can pick a date, so that most of the Councilmembers can make it to that meeting.

MS. ADELSMAN: I put it down the same day. Is it evening?

MS. MAKAROW: That will be an evening meeting, and we will have to think about it. It has a potential of having a lot of people coming to it.

<b><i>Columbia Generation Station</i></b>	<b><i>Mike Mills, EFSEC</i></b>
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CHAIR LUCE: All right. Columbia Generating, Mike.

MR. MILLS: Just a brief report. The plant has restarted. They've been on line for 16 days. They restarted on August 22. They were down for over three weeks which was longer than they had anticipated, but they ran into some pump and valve problems. They are currently operating at 100 percent power.

CHAIR LUCE: All right.

<b><i>WNP-1</i></b>	<b><i>Mike Mills, EFSEC</i></b>
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MR. MILLS: For WNP-1, I'll cover two activities. Site restoration work at the WNP 1 and 4 sites is continuing. I was able to do a site visit with Jeff Taylor from the Department of Ecology last month, and it looks like the work is progressing fairly well. They would like to get the Council over for a site visit to see the work that they're doing on the 1 and 4 sites. I was also looking at the weeks of either October 18th or the 25th, so staff will try to coordinate that and find out when members are available during that time period. In terms of the off-site environmental mitigation, we've heard that the Rattlesnake Slope Acquisition Project may have encountered some difficulties with the property owner, but we're continuing to monitor that with the Department of Fish and Wildlife. The Chair has also been in active contact with Benton County about Benton County Parks pursuing some other options and looking at some other possibilities for acquiring some mitigation property in Benton County. So we will continue to monitor that and keep the committee apprised of what we're doing there.

CHAIR LUCE: Thank you.

<b><i>Chehalis Generation Facility</i></b>	<b><i>Mike Mills, EFSEC</i></b>
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MR. MILLS: Chehalis Generation project I talked with Duncan McCaig this morning. He indicated the plant has been on line most of the month of August approximately about 80 percent of the time. They were down five days for economic reasons, and they're currently operating at full load. They continue to monitor and try to make improvements on noise. They did receive another couple citizen complaints during late July and August during start-up, and they're

continuing to troubleshoot and look at equipment-type improvements that would lower the noise on the project site. I think that concludes my report.

CHAIR LUCE: Any questions from Councilmembers?

## ITEM NO. 7: EFSEC RULES

<i>Update</i>	<i>Chuck Carelli, Consultant</i>
CHAIR LUCE: All right. The next item is an information item, EFSEC rules. We have with us former Councilmember and now Council contractor, Chuck Carelli. I believe Councilmembers have been provided with a Draft Concise Explanatory Statement. Chuck has prepared this at our request. This is a substantial document which I understand he will leave with us today for our review. I think our next Council meeting is September 21.	
MR. FIKSDAL: 20th, I believe.	
CHAIR LUCE: 20th. So I've asked Councilmembers -- this is not going to be news to you. We reviewed the draft rules and much of this work before. But take the opportunity to look through it between now and then. Chuck is going to go over some of his work with us now, and I think that the Final 201 we're able to adopt October 7th, 10th.	
MR. FIKSDAL: Yes, the CR 103?	
CHAIR LUCE: Excuse me, the CR 103.	
MR. FIKSDAL: CR 103. The Council cannot take action prior to October 10, so that week sometime. I know that we have a tentative schedule to be in Kittitas County that week, but that's the soonest that the Council could take any action.	
CHAIR LUCE: Okay. So, Chuck, are you going to do a walk --	
MS. ADELSMAN: Can I ask a quick question?	
CHAIR LUCE: Please.	
MS. ADELSMAN: Since the last meeting we got a package of comments. Some of them were actually new comments that we haven't seen before.	
CHAIR LUCE: Right.	
MS. ADELSMAN: Is Chuck then going to be -- because some of them we had not discussed.	
CHAIR LUCE: Those comments Chuck and Chris Towne and I and Allen have been working on, and the responses to those comments we have been working on. Chuck is going to walk you through those today. I think all four of us feel comfortable that the response to the comments is accurate and reflective of what the Council would feel, but we want to make sure that that's true. That's why we passed them out, and that's why we would like you to look at them between now and the next Council meeting.	
CHAIR LUCE: Chuck, do you want to take it from here?	
MR. CARELLI: Okay. I will get to what I'm calling a Responsiveness Summary Table based on those nine written comments that you received subsequent to the August 10 hearing. Those nine written comments I think came up with 144 individual comments. We've addressed each of those in the responsiveness table. First of all, what you have in I believe your black bound folder in front of you is a draft of the Responsiveness Summary or the Concise Explanatory Statement. The Responsiveness Summary is also included in this document as Table 2. It's about a 30-page table, so we pulled it out for purposes of looking at it today. The Responsiveness Summary or the Explanatory Statement the first 80 or 90 pages kind of explain why you're doing this, why you're adopting new rules, the basis behind it, and the process that you went through to solicit	

comments to get ideas and refine the rules. Once you get beyond that and beyond the Responsiveness Summary from your August 10 meeting you have what is I believe what you meant to say about why you made changes to each of the rules. What we did in format is to identify every change that you made and provide a comment about why that change was made. Whether it were an editorial change, whether it was a change in title, or whether that section was moved or deleted, we have a comment about why you did that, and the impact that change would have on the rules. If there were comments received at the August 10 hearing, then those comments are also related back to that particular section of the rules. There's also then a Council response to those comments and a further line indicating whether there had been any changes made and what that change might be. One of the things I will do today is talk about what I believe are some of the changes that you could make to the rules to clarify your intent, to better clarify what the rule means. These would be changes that you could make I believe without changing the substance of the rules.

MS. ADELSMAN: Chuck, can I ask a question? The comments that we received they did not have numbers, but your document referred to comments by number. Do we have a list of those numbers? Like if I look at Northwest Energy, can I see what the number is there?

MR. CARELLI: You should have a copy of the nine letters that were provided.

MS. ADELSMAN: They don't have numbers on them.

MR. FIKSDAL: Yes, they do.

MS. ADELSMAN: Oh, they do?

MR. CARELLI: Down in the right-hand edge of that front page.

MR. SWEENEY: You're talking about Comment No. 8.03?

MS. ADELSMAN: Maybe my packet didn't have it.

MR. FIKSDAL: It's this.

MS. ADELSMAN: Oh, I should go into that. I'm sorry.

MR. FIKSDAL: It's the one that are handouts.

MS. ADELSMAN: All right. I got it. Sorry. I didn't know they were reattached. Thanks.

MR. CARELLI: Okay. The second piece that you have today will be smaller, 31 pages. This is the Responsiveness Summary from the August 10 hearing, and as Jim had indicated I took a shot at providing a response to the comments. I sat down with Allen, Jim, and Chris, and they in turn reviewed it, provided me comments, and I've made those comments. The other piece that goes along with that are the nine comment letters, and they're indicated comment letter number such and such at the top right-hand corner, and then along the right border of each page is a comment number. Comment Letter No. 1 from the Renewable Northwest Project starts with the down at the bottom with Comment 1.01, 1.02, etc. Those comment numbers and the WAC reference number are included in the Responsiveness Summary, my summary of what the comment said and then response as I said that we've looked at before. The final piece would be a short two-page of what I consider to be some areas that you might look at for possibly making changes to the rules. I believe based on the comment that was provided it would be possible to clarify your intent or clarify the applicability of the rule and/or revision to avoid confusion possibly down the line. With that, I think I will stop and see if there are any questions.

CHAIR LUCE: So let me repeat what I think you said because I think you've done a really outstanding job here. The first page, actually the first page it's two pages because they're on the back and front. The first page and halfway over is suggestions that we might want to make to change the draft rules to clarify certain things, correct?

MR. CARELLI: Yes.



CHAIR LUCE: The second page, actually Page 1 of 31 just lays out the different comment letters that were received, and there are eight of those. We included both the Renewable Northwest Project letter dated June 16, 2004 and August 12, notwithstanding the fact that some changes were made that were responsive to the June 16 letter.

MR. CARELLI: Actually there are nine comment letters.

CHAIR LUCE: There are nine comments letters. All right. Then the following material pages, Pages 2 through 31 are the responses to those comments, each comment, the WAC reference, the comment and the response. And then following that are the letters themselves, and then as Chuck said in the right-hand margin of each one of those comment letters he has placed the comment itself. So I think he's done a really great job of organizing it. Chris, I think, and I think you would agree that the comments that he has made and the responses that have been laid out at least as far as we're concerned accurately reflect what the Council discussion has been to date.

MS. TOWNE: Correct.

CHAIR LUCE: That's what we would like to now have happen is to have the Councilmembers take between now and the next Council meeting and read those and reflect on them, as well as on the other materials laid out here in the Concise Explanatory Statement, so that we'll be ready to have a more robust discussion or fuller discussion, if appropriate, at the next Council meeting. Tony.

MR. IFIE: I agree with you that the materials were very well organized and look very thorough. I have a question for Chuck. It has to do with a statement that he made. You were saying that you were proposing some changes that would lead to a clarification of specific portions of the rules, and you also further said the changes that you were proposing were not substantial changes or they were more of clarification.

MR. CARELLI: Yes.

MR. IFIE: I was just glancing at it. I haven't read this in detail. But on the first page of the summary, on the first page the back where it says, refers to WAC 463-72-050, it's an extension of the date for submitting a document. It details site restoration plan shall be submitted within 30 days. It appears that has been changed to 90 days. Is that a change that you are proposing or is that something that was done?

MR. CARELLI: No, that is a change that in my view you could consider without substantially changing the intent of the substance of the rule. The comment had originally requested that this be made into 12 months; that they submit their detailed site restoration plan 12 months after termination. Your original rule had 30 days after termination. Thirty days does not seem reasonable; 12 months may or may not be reasonable. For want of a better choice 90 days gives you something to think about, and whether you want to accept that 90 days or 180 days or whatever is your prerogative.

MR. IFIE: My follow-up question to that would be the criteria for a clarification change as opposed to a substantial change. The changing procedure or procedural changes would that be considered a substantial change, change in procedure? I'm just curious what kind of criteria we're using to determining what you consider as clarification.

MR. CARELLI: For the most part my intent was trying to clarify where there may be some ambiguity or there may be some conflict in two recommendations.

MR. FIKSDAL: If I may also, Tony, if you look at that rule in conjunction with the other rules, and you look start looking at the time line, it just doesn't quite work. I think what you need to do is look at that whole chapter and see the different requirements at different times or whatever they are. If I recall in our discussion the 30 days didn't seem to flow very well and whether that

30 days was really intended to be 30, 60, or 90, it may be called into question whether the Council really meant that number of days if you look at the rest of the section. So is 90 days more appropriate? Is it a clarifying change? I think in total context I think it would be more of a clarifying than a substantial change.

CHAIR LUCE: Thirty seems awfully abbreviated. Twelve months may be more than is needed. Ninety seems more reasonable than 30 seems reasonable.

MS. ADELSMAN: But I think Tony brings a really good point. It's what do we mean by just clarification? It's really very important for us as a Council to agree as to what do we mean by clarification, and I agree with the statement that Allen was just saying; that maybe that choice of 30 days if you look at everything else was not workable. But at the same time I think one of the other things we haven't done and maybe, Chuck you have, is define what do we mean by just clarification because I think we need to have that in order for us to continue through the public process and be able to say we made these changes, and the reason we made them is this.

MS. TOWNE: Let me clarify my understanding.

MS. ADELSMAN: Your clarification.

MS. TOWNE: Yes, my clarification, if you will. It would be desirable to address this two-page list. It is not critical to the survival of our regs. If we decide to make one of these changes and are challenged because someone deems it to be a significant change, and we have to jettison it, so be it. Life goes on. This is our goal of infinite perfectibility of our rules as of this month, and if we don't make these changes, we don't make these changes.

CHAIR LUCE: The world will not end.

MS. TOWNE: Correct. So I guess that would be my gut reaction test. That may not be legally sufficient, but I think you get my meaning.

CHAIR LUCE: Well, the classic one, just to pick on one here since it involves me, 463-20 halfway down the first page, "Is the Council the presiding officer?" Well, someone suggested that maybe the Chair should be the presiding officer. I was flattered.

MR. FIKSDAL: I don't think you'd win in a vote.

CHAIR LUCE: Hey, I have more votes. The alternative view was that under the APA the entire Council is the presiding officer. Now quite personally I don't care who the presiding officer is. With everything else being equal, it's fine with me that the entire Council is the presiding officer. So I would just as soon leave it the way it is right now, which is that the entire Council is the presiding officer. It's a little awkward because if you think about it logically --

MS. TOWNE: We don't fit in one chair.

CHAIR LUCE: -- presiding officer suggests a singular officer not a plural officer of six, but that's okay.

MS. ADELSMAN: I don't think personally I will argue. I think some of these changes are okay. It's just a matter of do we have a clear understanding among the six of us as to -- and it wasn't because you three or four, so we are asking the second question saying what is your criteria. And if we get the criteria, then we look through this list and we say, you know, there's no problem. I think that's -- it's not to raise why this one or that one is more but as to our criteria for the changes.

CHAIR LUCE: I think the criteria is process. De minimus would be a word I would use. Can I define de minimus perfectly? No, I can't. Another one could be, for example, --

MR. CARELLI: Jim, if I could just a moment.

CHAIR LUCE: Sure.

MR. CARELLI: I was asked to put this together. A little bit reluctant to do so in that at one point it was suggested that I tell the Council you should make these changes. Well, I'm not doing that. I was asked to identify some areas that could be used that the Council could consider to make some changes that would further clarify, and I'll underline clarify, the intent of your rules. I think the Council really needs to look at each of these questions and make up your minds about should we make this change or shouldn't we make this change, and I cannot say what the criteria should be. You're going to have to tell me what the criteria are, why you would make that change, and I'll simply record it.

CHAIR LUCE: Right. I would agree. And I can't enumerate a specific list of criteria. Another good example though, Hedia, down at the bottom says 64-040(3), the Council shall consider -- strike that. 030, within 60 days of the receipt of the Council's report the Governor will take one of the following actions. Well, the comment was the Council can't direct the Governor to take an action. The verb "will" implies that the Council can tell the Governor to do something. Well, clearly at least I don't think that the Governor can tell the Governor.

MS. TOWNE: The Council.

CHAIR LUCE: It reads "shall" now. So the suggestion was change it to "will."

MS. ADELSMAN: And that fits very well with that rule.

CHAIR LUCE: That fits perfectly. To me that's clearly a clarification, and the one on the back side is the same way, another change from "shall" to "will." So both of those to me fall into the realm of pure clarification.

MS. ADELSMAN: So as we read all of this material for the 20th, I think at least personally I know I will keep in mind whether any of these suggestions and maybe we may have other suggestions are clarification in the sense of further clarify the intent of the rule or make it easier to read and implement it. If we all have that in mind, then I think we could read this thing. I think that's the only thing Tony and I are suggesting, not to go through this example at this time and make the decisions. We will do that later as you say as we read through this. Okay. That's fine.

MR. IFIE: The other question I was curious about, the other issue I was just thinking in my mind I was thinking about what Chris said. If we start making changes, then somebody might challenge the changes that were made and say that we consider the changes significant. So I am thinking in my mind. Okay. So what basis will that person use to determine that's a significant change? If it's a legal definition, I wanted to know it in advance. If it was some standard definition that we would use to tell me what a significant change might be, I wanted to know that in advance. But what I am hearing you say is that you don't know of any definition. It's more of a subjective decision.

MR. CARELLI: Tony, I simply looked at the comment and said, oh, that kind of makes sense and added it to the list. It's a suggestion to you. If you accept it, great. If not, we will so note it that the Council opted not to make this change.

CHAIR LUCE: I know you don't want to discuss each one of these, but I'm going to go ahead and push on a little bit here.

MS. ADELSMAN: You're just trying to convince us to go with them.

CHAIR LUCE: No, I'm not trying to do that. I'm just trying to point out that, first of all, Ann will have looked at these by then. She's working on our case for September 13 and can't be with us right now. So we will have legal review by then. But these rules at least I believe all of us would agree were never intended to apply to new applications. So the last one here,

applicability, that's underscored makes that clear, that the Council shall incorporate these conditions in the site certification issued after the effective date.

MR. IFIE: That is definitely a clarification.

CHAIR LUCE: It is definitely a clarification. So I can't give you a specific criterion that says this is a clarification and this is not. I think each one of us has to look at that and reach our judgment and then listen to Ann's best advice. So that's all I would say about it.

MR. IFIE: Thank you.

MS. ADELSMAN: So that last change, it will apply to an application that's still pending in front of us.

MS. TOWNE: No. Read the last part of the sentence.

MS. ADELSMAN: It says shall not apply for which a site certification will have been issued before this chapter. Site certification not application.

MS. TOWNE: No, the first sentence. Incorporate these conditions in site certification agreements issued in connection with applications filed after the effective date of this chapter.

MS. ADELSMAN: But read the next sentence. It shall not apply to the ones -- this is a big issue for us relating to BP, you know, because --

MS. TOWNE: It is, but I would say the first sentence governs, and the second sentence just says the same thing in a different way.

MR. CARELLI: The first sentence, if I can, says that this does not apply to applications filed with the Council, accepted by the Council prior to date of these rules. The second sentence says that these rules do not apply to site certification agreements that have been issued.

MS. TOWNE: You don't have to say that, but you could read the first sentence to deal only with applications in or out, applications before or after the date. So we've clarified applications after the date of the adoption.

MS. ADELSMAN: So the application pending in front of us now would be subject to the existing rules?

MS. TOWNE: Yes.

MR. CARELLI: Yes.

MS. ADELSMAN: It's not clear.

MR. SWEENEY: Yes. You might want to make a note of that and discuss it the next time.

MS. ADELSMAN: It's not clear to me. I mean I think the first sentence says shall be incorporated.

MR. FIKSDAL: Why don't you come back with some suggestion.

MR. SWEENEY: I think you've got a point though. There is some kind of middle area that is unspoken.

MS. TOWNE: Right.

MR. FIKSDAL: But I think the intent was there's an application and there's a site certification agreement, existing application, existing site certification agreement. Neither of those will be governed by these laws.

MR. SWEENEY: This speaks to the comment of those who were nervous that it was going to apply to existing applications.

MS. TOWNE: You could state the obvious in between those two sentences.

MR. FRYHLING: It applies to Sumas, to Chehalis, and the other ones that have already got it, so it's very clear to me.

MS. TOWNE: You could have a third category which is for applications now under consideration by EFSEC, the new rules shall not apply. You could make it a definitive statement.

MR. SWEENEY: We've spoken to two categories but not a third category.

MS. TOWNE: There's three conditions. Cover them all.

CHAIR LUCE: I think we've had a good discussion about this and Councilmembers can go off and look at it, and we'll have some further discussion on the 21st. Hopefully by that point in time you will also have had a chance to read the textual material that Chuck has provided up front as to why we got into this going longer now more than three-year process. Actually the first meeting I think was in December, so it won't be quite a full three-year process. Hopefully we can set aside a good chunk of time, whatever is necessary, on the 21st to finish this up.

MR. FIKSDAL: The 20th.

CHAIR LUCE: 20th, 21st. They all run together for me. I will be here, whichever one it is. On the 20th and then October 7th or 10th.

MR. FIKSDAL: After the 10th.

CHAIR LUCE: After the 10th. I keep trying to go ahead of time. After the 10th, maybe the 11th we'll go ahead and finalize the CR 103. I got 103 this time. Thank you, Chuck.

MR. IFIE: Thank you, Chuck.

MS. ADELSMAN: Thanks.

MR. CARELLI: In your reading leisure keep in mind that there's a lot of verbiage, and it may or may not be appropriate to have that much detail. If it's not appropriate, we can reduce it.

CHAIR LUCE: But at the same time I think that editing should be judicious.

MS. TOWNE: Yes, sir.

CHAIR LUCE: I was looking at Sweeney.

MR. SWEENEY: It must be the glasses. You've got kind of a cross-eyed look there.

CHAIR LUCE: I know that anything that is offered between now and the 21st --

MS. TOWNE: 20th.

CHAIR LUCE: -- Chuck would like to get it sooner rather than later.

## **ITEM NO. 8: EFSEC OPERATIONS**

<b><i>Allocation Plan</i></b>	<b><i>Allen Fiksdal, EFSEC Manager</i></b>
CHAIR LUCE: The next item on the agenda is focused on EFSEC operations and allocation plan. My understanding is Allen has a presentation, and he's been working closely with Tony on this. Okay. So why don't the two of you take a leap on this.	
MR. FIKSDAL: Thank you, Mr. Chairman. For those in the audience there's a pile of paper right next to Mr. Lane there. That is this plan to look at. You recall that last -- or I've been working on a cost allocation plan to determine how non-direct costs that EFSEC has are allocated to the different projects that the Council has. You reviewed one of the plans I think it was back in July and approved at least one rate for at least July for the Council to be charging for their non-direct costs. Tony and I have been working on this. The plan itself I think the first two or three, two pages are similar to what you have seen before. I think starting on Page 3 we developed the following, and Tony reminded me that this needs some editing, for instance, principals to principles. I think that's spell checking at its best here. Essentially the principles that I started working from I think the Council had agreed upon that the non-direct cost	

allocation plan should be fair and equitable, simple, transparent, and predictable, and those four principles should be looked at in trying to determine what the non-direct costs plan and rates should be. In doing this planning I came up with five different options, and they're Option 1, 2, 2a, 3, and 3a. I used to have different numbers, so just because some are similar I grouped them into that.

Option 1 -- and you'll see later in an attachment on the back there's a color attachment, black and white for the folks in the back, that shows some models using each of these options under the different cost allocation model. But Option 1 essentially equally distributes all the non-direct costs over all the projects in just a very simple percentage. Each one pays the same number or same rate. That means that if EFSEC had ten projects or, for example, if EFSEC had ten projects, each would get charged ten percent of any non-direct costs.

Option 2 -- This is something you've seen. -- would use the percent of EFSEC staff time. We use FTEs. This is all of EFSEC staff in looking at the rate. For example, one project may have five percent of EFSEC's time. Again, it would be charged five percent of the non-direct charge. Another project could have 15 percent because EFSEC staff charged 15 percent of that time, and therefore we charge 15 percent.

Option 2a is essentially the same as Option 2 except that it adds a future component to it where because we have determined or that the Council or the manager or the staff has determined that the upcoming quarter has some additional work for one of the projects we would add a certain percentage to that because of the additional work. So perhaps one or two or three or four or five percent addition. Under this option the rate is adjusted, but one of the issues with this is how do you determine how much or what percent you should adjust it? There's nothing empirical about it. It's purely guess and best judgment on somebody's part, and you can't really prove or disprove what that might be.

Option 3 uses just a percentage of EFSEC staff only in that it uses Mike's and Irina's time who are the persons that particularly work solely on the projects themselves and would possibly better reflect the level of effort that the Council is giving to each of these projects. So this only uses their FTE rates, not all of the staff's FTE rates.

Option 3a is the same as Option 3, except again it adds a future component like we did in 2a. If you turn now to Table 1 or Attachment 1, the colored red, yellow and green, what I tried to do is put out, use what's called an option cost or a cost allocation decision model in determining which of these options would be best for the Council, and we put it to a test. You can see we added one more column besides simplicity, fairness and equity, transparency and predictability. We added cause and effect, and cause and effect in cost allocation means that there's a proximate cause and effect relationship for actually increasing or decreasing cost. So, in other words, if you're looking at different allocation models, you're looking at whether it actually really works or not. Would one option actually increase or decrease the allocation? For this I rated it high, medium, or low, and then it's just to give a scoring to see what the score is. Low is equal to one. Medium is equal to two. High is equal to three.

You can see across the line for Option 1, which is that equal percentage rate to all charges. The cause and effect is low because the rates would not change. Simplicity is high because obviously it's very simple. You just charge everybody the same and everybody is equal. Fairness and equity I think low because in my mind it isn't as fair as the other ones because it isn't equitable. A project like Wallula is not having as much work as a project like Wild Horse, and under this Option 1 they would be charged the same rate. Transparency is high. It's kind of like simplicity in a way. It's high. It's easy to figure out. Predictability is very high. This is predictability for

the applicants to see what the future rates are going to be because they'll know what the rate is. They may be 10 percent or 9 percent or 11 percent, whatever the case may be. That had a score of 11. Then you can see the rest of these.

Option 2 that's just using all the staff FTEs. Cause and effect is medium. Simplicity is medium. Fairness and equity, transparency, and predictability that I gauge them all as medium.

MR. SWEENEY: Allen.

MR. FIKSDAL: Yes.

MR. SWEENEY: Just to kind of give that relevance since it's Option 2 and Option 3 that kind of jump out at me, could you say why Option 2 scored different than Option 3 in the categories that they did.

MR. FIKSDAL: Again, using all of staff time I don't think is as equitable. Let's look at equitability. Option 2 isn't as equitable as Option 3. Because Mike and Irina work directly on the projects their FTEs show I think relative to these other options the work load more closely than part of my time which I do a lot of administrative work and for maybe Mariah's time and the clerical time that do more administrative type of work. It doesn't match what the work is.

MR. SWEENEY: Because you do administrative work that it skews it, it skews that option?

MR. FIKSDAL: It will skew it somewhat, yes, more than just using Mike's and Irina's. Some of these are relative to each other.

MR. SWEENEY: Right. That's why I wanted to look at those.

MR. FIKSDAL: Right.

MS. ADELSMAN: So, Allen, are you saying that in Option 3 that the administrative part is not charged at all?

MR. FIKSDAL: That's correct. We would use Option 3 for the administrative charges.

MS. ADELSMAN: Okay.

MR. SWEENEY: You would apply that formula to the administrative charges.

MR. FIKSDAL: To my time for administrative charges, yes. Option 3a --

MS. ADELSMAN: Sorry. But Option 3 doesn't recognize other activity -- or no. Let me see how I want to say this. Option 3 is pretty much say if you're not working on project related items. That's captured in Option 2 because all of that is accounted for and distributed.

MR. FIKSDAL: Yes and no. I think what we're looking at, we're looking for a way to find how much time or what rate we should charge on all of the non-direct costs which include those administrative costs. So including administrative costs in that charge to begin seems a little counterproductive or counterintuitive.

MR. IFIE: Let me add something to this. So we're talking about two different kinds of costs. We're talking direct costs. That is not what we are discussing today. We are discussing the non-direct costs. On page 2 Allen discusses or defines what non-direct costs are, so this includes office space, office equipment, office supplies, staff training, staff's salary and benefits, utility charges, CTED administrative charges and on and on. So those are the ones that we're talking about today. We're not talking about the direct costs which are costs that we have on a project.

MR. SWEENEY: But doesn't Option 3 assume that the administration costs are applied at the same ratio as Irina's and Mike's work because that's what you're doing; you're applying the same percentage?

MR. FIKSDAL: Yes, that's correct.

MR. SWEENEY: Yet there are probably certain activities that we do when a case is open that draws more heavily on administrative than say one that is closed and you're just doing a site

certificate. And I'm just assuming. Mike, maybe you generate all sorts of administrative work as you enforce it. It seems like Irina in her activities generates a lot more administratively.

MR. FIKSDAL: But most of their work is on specific projects that are direct costs, so what we're trying to do is find out how much work goes to the direct costs and use that percentage for the non-direct costs.

MR. SWEENEY: So we're really putting administrative costs in the non-direct basket then when you do this.

MR. FIKSDAL: Yes.

MR. SWEENEY: And I don't have a problem with that.

MR. FIKSDAL: You're correct.

CHAIR LUCE: So let me ask a clarifying question. What you're saying is, the question you were asking is whether Mike and Irina are heavy support staff users, and those are being charged as administrative costs which should be recovered from the projects.

MR. SWEENEY: I think so. This is one of those things where you could explain it and mean the same thing, but I will have to explain it my way. Part of it is if the case is open and we haven't gotten to a site certificate yet, it seems to me that there is a bigger administrative impact.

CHAIR LUCE: Right.

MR. SWEENEY: Whereas Mike's work probably does require more support at times. It's not like we're holding hearings and generating a lot of mailings and a lot a public process which is an administrative function.

MR. FIKSDAL: But that administrative function is actually a direct charge.

MR. SWEENEY: Okay. So now let me back up then. So when we say we're just looking at Irina's and Mike's time though, there are times when Mariah and you directly assign costs to a specific project.

MR. FIKSDAL: Correct.

MR. SWEENEY: Now what happens in that forum? I mean does that mean you're looking at that in Option 3 as well when you determine percentages?

MR. FIKSDAL: No. We're not looking at that because --

MR. SWEENEY: So you're taking those direct costs.

MR. FIKSDAL: I believe Mike's and Irina's time are more directly related to those costs, those charges as a rate than the amount of time that I would add and whatnot and maybe Mariah. So I think if we're not -- let's say we get an application. There's a little lull time in there. Irina will be working on that new application but won't be spending a whole lot of time on it. So I think through I think what we've seen their time is I feel is very indicative of the rate that the Council is spending on a lot of these.

MR. SWEENEY: Just to be clear, Option 2 looks at all the direct costs across the board at what percentage you're using whereas Option 3 is just the direct costs of Irina and Mike.

MR. FIKSDAL: That's right.

MR. SWEENEY: Then administrative costs, just to be clear here, aren't necessarily a hundred percent of your time because some of your costs can be attributed to direct projects like Mariah and other staff as well. So we're really looking at overhead administrative activity.

MR. FIKSDAL: Again, this isn't a perfect system.

MR. SWEENEY: Absolutely. I just want to make sure I understand.

MR. FIKSDAL: One of the things we looked at is could we get to a perfect system and to a better time-keeping system, and we didn't put it in here. I guess one of the things is simplicity. If we were getting to a strict time-keeping solution where I track every minute of my time, and it



has to do with the way CTED keeps their books versus the way I would have to keep their books, the amount of time and effort that it would take us to get to there causes the simplicity to go down rather than high. So that I can just go to the state's system and pull out an FTE for Mike and Irina very easily. I can do it for any of us to charge the rate, but it doesn't reflect the administration time in the FTE count that the state has. So part of this is simplicity and it isn't simple to get there from here.

MS. ADELSMAN: So, Allen, just quickly. The cost effectiveness then is captured in the simplicity I mean because cost effectiveness is really critical. You could make this very sophisticated, but it would be really expensive eventually.

MR. FIKSDAL: Yes, that's correct.

MS. ADELSMAN: I think that's one criterion that's not listed in here.

MR. FIKSDAL: Right. We did have that at one time, but we took it out.

MS. ADELSMAN: Then your No. 3 really all is what you're using is an indicator of the work load.

MR. FIKSDAL: Yes.

MS. ADELSMAN: That's all it is.

MR. FIKSDAL: We're trying to find an indicator. That's the point. We're trying to find an indicator. What is the best way to have an indicator? Option 1 really isn't the same as two or three.

MS. ADELSMAN: Right. So absent a very detailed work-load analysis that could take a year or more and quite expensive you're just trying to find the most maybe fair indicator of allocation.

MR. FIKSDAL: That's correct.

MS. ADELSMAN: That's fine.

MR. IFIE: And I think the proposal here is an improvement over the status quo. The status quo is more subjective where this one is more objective than the status quo that we're using right now.

MS. ADELSMAN: Yes.

MR. FIKSDAL: I think the sensitivity isn't great in any of these. The differences you'll see in Attachment 2 for what the sensitivity is if you look at what the differences in cost would be, if you use those, it's within five, six thousand dollars over a year or ten thousand at the most depending on I think the sensitivity between Option 2 and Option 3. So does it make a difference? Yes, a little bit. Does it make a lot of difference? It depends on who you're talking to.

I'm trying to figure some easy empirical way to gauge these also, but assigning high, medium, and low is subjective. If you see this, Option 3 comes out to be a little bit higher. I thought Option 3a would be the best because it's the most fair, I think, because you're looking at the future a little bit, but then how do you guess what the future is? You know, I can assign three percent or six percent or something, but you're going to catch up in a quarter, or if any major thing happens, we can readjust this rate anyway. Let's say we get a new application, then that will change. We have nine different billing codes right now. If we get another one, it will change everything dramatically, and we'll have to go back and reassess everything.

MR. SWEENEY: Right.

MR. FIKSDAL: So my proposal is that Council approve Option 3. I think it scores the highest by a little bit. Also we looked at whether we should use a yearly average or quarterly average, and I tried the same test, and the quarterly average comes out to be higher in this test than the yearly average because it better reflects current things that are happening; although it does have

some differences. I mean predictability is much lower because it changes each quarter. That's one of the things that the certificate holder and the applicant would really like to see is predictability. How much is it going to cost in the future? What's the best? But when you put that as part of the test, you have to gauge all these things. Is it fair and equitable? Is it predictable? Is it simple? Does it have cause and effect? Is it transparent? So that's what we tried to do with these tests is put all those together and come out with a more I guess empirical type of score.

CHAIR LUCE: Let's look at Option 2 and Option 3.

MS. ADELSMAN: Can I ask one last question. I'm sorry. I missed it, Allen. 3a you said it's the best, but then I didn't catch what you said.

MR. FIKSDAL: In fairness and equity I think it's the best. It's the highest. I think in predictability it's lowest. Transparency it isn't as high because I'm going to have to predict something for the future. And how do you measure what the future is going to be? My guess is all that's going to be. There isn't any empirical information that I'm going to be using. It's going to be essentially my best judgment of what I think it's going to be in the future. We could do that and then have it charged back at the end, but that then just causes more paperwork and actually probably will cost similar. Or who knows what the cost will be because of the charge back problems? So simplicity and I think transparency, cause and effect are high in three. It scores a little bit higher than 3a and higher than 2. I mean any of these you could use any of them. I think they're justified.

I was just trying to find if one is better than the other, and I think 3 comes out to be better. It's not perfect. It's not exactly, but it's as good as we're going to get right now. What I would like to do is have the Council approve this through the end of this fiscal year, approve this plan. Every quarter we'll look at what the changes in the FTEs are and change our rates accordingly, and we'll bring those to you and show you what that's going to be. That's my recommendation.

MR. SWEENEY: I'm surprised you didn't find Option 3 simpler than Option 2 because you would only have to track two employees' time as opposed to more.

MR. FIKSDAL: Yes. Again, we only have high, medium, low, and where you gauge. So if you want to take this and do this test and come back that would be just fine.

MR. SWEENEY: Do we need a motion on this or what?

MR. FIKSDAL: Yes. I would appreciate that the Council formally adopt this as their plan.

CHAIR LUCE: So moved?

MR. IFIE: I so move.

MS. TOWNE: Second.

MS. ADELSMAN: So this is until December 30th.

MR. FIKSDAL: Through June 30 of next year, through this fiscal year.

MS. ADELSMAN: Okay.

CHAIR LUCE: Now we're going to have some -- we got a motion and a second, so I guess it's time for discussion. We are going to have a discussion with Senator Morton -- here I go again -- September 20 or 21. I'm not sure.

MR. FIKSDAL: September 20, yes, for the Senator.

CHAIR LUCE: So I anticipate that we will be sharing this cost allocation plan in some form with him. There's also been suggestions by some parties and interests that an appropriation in the amount of \$500,000 or thereabouts would be something that might be supported in the legislature. In talking with the Governor's office I was referred to Robin Campbell at OFM as the person to discuss this issue with. She probably has the lead on this and also asked to talk

with Juli Wilkerson and Sue Mauerman at CTED. So I will be doing that. I don't think that the Governor's office yet as composed between CTED and OFM has a position on that appropriation request.

MS. ADELSMAN: And it went from CTED to the Governor's office?

MR. FIKSDAL: It went up to OFM, yes.

MS. ADELSMAN: To OFM, yes.

MR. FIKSDAL: I forgot to mention something. We had asked, we sent out an earlier version of this plan to the certificate holders and applicants and asked for their comments, and we received two or three comments back. They're pretty predictable. The comments we got back from Energy Northwest is essentially they are willing to pay their fair share, to summarize it. Chris Taylor from Zilkha called and expressed his desire for Option No. 1 which would be the simplest, easiest and cheapest for him I would assume. But he was being asked. We asked him, and he gave us a response, so that was essentially the responses we got.

CHAIR LUCE: So what I will be prepared to tell Senator Morton is that we've adopted this cost allocation plan.

MR. IFIE: We haven't yet.

CHAIR LUCE: Well, assuming we do between now and next July if the legislature appropriates funds, then we certainly would utilize those funds. But we don't have a position yet within the Governor's office on that issue unless we get one between now and September 20th.

MS. ADELSMAN: One last just -- I'm sorry. I think my problem is I worked on work-related stuff this weekend. We're approving this to June 2005, but every quarter you're going to be looking at it.

MR. FIKSDAL: That's correct. Or if there's any major significant changes I think we have to look at that also.

MS. ADELSMAN: Okay.

MR. SWEENEY: Call for the question.

CHAIR LUCE: Question has been called for. All in favor say aye.

COUNCILMEMBERS: Aye.

CHAIR LUCE: It passes unanimously, let the record reflect.

MR. FIKSDAL: Thank you very much.

## **ITEM NO. 9: OTHER**

CHAIR LUCE: The next item on the agenda is "Other." Anybody have anything under "Other"?

MR. FIKSDAL: I guess the only other I would say is to remind folks that as you mentioned the Council is going to provide testimony to the Senate Energy Committee at 10:00 a.m. on September 20, and that will be in Hearing Room 2 of the Senate building, and on Tuesday the 21st at 10:00 a.m. in front of the House Energy Committee in House Hearing Room A.

CHAIR LUCE: On regulatory barriers. I hope to be able to report that we have slain the regulatory barriers such as they existed or at least we've put a couple of spears in them.

## **ITEM NO. 10: ADJOURN**

CHAIR LUCE: So that is it. The meeting is adjourned.

(Whereupon, the Council meeting was adjourned at 2:44 p.m.)

An Executive Session was held in private after the adjournment of the regular agenda meeting.